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NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
GLENIO JESUA FERREIRA SILVA,)
)
Defendant.)

No. 07- 00678 JSW

**APPLICATION, AFFIDAVIT, AND
[PROPOSED] ORDER FOR ISSUANCE
OF MATERIAL WITNESS ARREST
WARRANTS**

The United States hereby makes this application in support of its request for the issuance of material witness arrest warrants pursuant to Title 18, United States Code, section 3144 for GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA. This request is supported by this application and the attached affidavit of Department of Homeland Security, Immigration and Customs Enforcement Special Agent Christopher Purfeerst, attached hereto and incorporated by reference as Attachment A. These warrants are sought in connection with testimony material to the matter, *United States v. Glenio Silva*, CR 07-678 JSW.

I. Application for Material Witness Warrants

Title 18, United States Code, section 3144 provides for the issuance of an arrest warrant for a material witness upon a showing that: (1) "the testimony of the person is material in a

APPLICATION, AFFIDAVIT, AND [PROPOSED] ORDER FOR ISSUANCE OF MATERIAL WITNESS ARREST WARRANTS

1 criminal proceeding;" and (2) "it may become impracticable to secure the presence of the person
2 by subpoena."¹ As set forth more fully in the accompanying affidavit and summarized below,
3 RODRIGUES and DESOUZA qualify as material witnesses under Section 3144.

4 On June 15, 2007, the Honorable Bernard Zimmerman issued a complaint and arrest
5 warrant charging Glenio Jesua Ferreira Silva (Silva) with one count of Alien Harboring, in
6 violation of 8 U.S.C. § 1324(a)(1)(A)(iii), *United States v. Glenio Jesua Ferreira Silva*.² The
7 complaint alleged that Silva knowingly employed illegal aliens at his businesses and permitted
8 several illegal aliens, including RODRIGUES and DESOUZA, to live in make-shift apartments
9 above his businesses. On October 7, 2007, Silva was indicted in a one-count indictment charging
10 Alien Harboring in violation of 8 U.S.C. § 1324(a)(1)(A)(iii).

11 Also on June 15, 2007, the Honorable Bernard Zimmerman also issued complaints and
12 arrest warrants for RODRIGUES and DESOUZA,³ employees of Silva in case numbers CR 07-
13 70347 BZ and CR 07-70346 BZ, respectively. The complaints charged RODRIGUES and
14 DESOUZA each with one count of Title 18, United States Code, Section 1028(a)(7) - Unlawful
15 Use of an Identity Document. ICE placed immigration detainers on RODRIGUES and
16 DESOUZA, each of whom is an illegal alien and citizen of Brazil. On January 15, 2008 and
17 February 20, 2008 respectively, RODRIGUES and DESOUZA appeared before the Duty
18 Magistrate and were arraigned on case numbers CR 07-70347 BZ and CR 07-70346 BZ. Each
19 has waived a detention hearing and remains in custody.

20 As set forth more fully in the accompanying affidavit, the testimony of GERALDO
21 RODRIGUES and ANDREA FERREIRA DESOUZA is material to the matter of *United States*
22 *v. Glenio Jesua Ferreira Silva*, CR 03-07-70345 BZ. RODRIGUES and DESOUZA were each
23

24 ¹ Specifically, § 3144 provides, in part, "[i]f it appears from an affidavit filed by a party that the testimony
25 of a person is material in a criminal proceeding, and it is shown that it may become impracticable to secure the
26 presence of the person by subpoena, a judicial officer may order the arrest of the person and treat the person in
27 accordance with the provisions of section 3142 of this title."

28 ² The Complaint was docketed as CR 03-07-70345 BZ.

³ DESOUZA was charged in the name of Jane Doe #1 a/k/a Andrea LNU, a/k/a Suhail Cruz-Pagan. Her
true named was learned after her surrender and the docket was thereafter corrected.

employed by and housed by Silva for a number of years. Each will be able to testify as to any actions taken by Silva to harbor them in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii). The United States further believes that securing the attendance at trial of RODRIGUES and DESOUZA by subpoena will be impracticable for a number of reasons, including the following: after release from the custody of the United States Marshals or the Bureau of Prisons, RODRIGUES and DESOUZA are each subject to deportation from the United States and will be placed in removal proceedings. Once RODRIGUES and DESOUZA are placed in removal proceedings, each may be deported from the United States at any time to Brazil, and thus will be beyond the subpoena power of the Court.

II. Conclusion

Accordingly, the United States asks the Court to issue material witness arrest warrants for GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA pursuant to Title 18, United States Code, section 3144.

Dated: March 4, 2008

Respectfully submitted,

JOSEPH P. RUSSONIELLO
United States Attorney


DENISE MARIE BARTON
Assistant United States Attorney

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~~PROPOSED~~ ORDER

For the reasons stated in the foregoing application and attached affidavit, the Court finds that the testimony of GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA is material in a criminal proceeding in the Northern District of California, namely, *United States v. Glenio Jesua Ferreira Silva*, CR 07-678 JSW. For the reasons stated in the foregoing application and attached affidavit, the Court further finds that it may become impracticable to secure the presence of GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA at trial by subpoena given the potential deportation each may face as an illegal alien. Accordingly, for these reasons and those set forth in the foregoing, IT IS HEREBY ORDERED that arrest warrants be issued for GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA as material witnesses pursuant to Title 18, United States Code, Section 3144.

Dated: March 7, 2008



HONORABLE JOSEPH C. SPERO
United States Magistrate Judge

ATTACHMENT A

UNITED STATES DISTRICT COURT)
NORTHERN DISTRICT OF CALIFORNIA) ss. AFFIDAVIT

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR ISSUANCE OF MATERIAL
WITNESS ARREST WARRANTS FOR GERALDO RODRIGUES AND ANDREA
FERREIRA DESOUZA**

I, Christopher Purfeerst, being duly sworn, hereby depose and state the following:

Affiant Background

1. I am a Special Agent with the Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), currently appointed to the Office of the Special Agent in Charge, San Francisco, (SAC/SF). I have been employed as a Special Agent with ICE since June 2005. I am currently assigned to the Office of Investigations, Compliance/Worksite Enforcement Unit. The Compliance/Worksite Enforcement Unit investigates matters concerning the unlawful employment, smuggling, and harboring of certain aliens in violation of Title 8, United States Code, Sections 1324 et. al. Prior to my employment as a Special Agent with ICE, I was employed by the United States Border Patrol as a Senior Patrol Agent.

2. I am familiar with the investigation that led to the Complaint and Indictment against Glenio Jesua Ferreira Silva for Alien Harboring, in violation of 8 U.S.C. § 1324(a)(1)(A)(iii). I am also familiar with the investigation that resulted in the arrests of GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA.

Purpose of Affidavit

3. I make this affidavit in support of material witness warrants for GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA, pursuant to the material witness statute codified in 18 U.S.C. § 3144. The information contained in this affidavit is known to me through personal knowledge, information received from other law enforcement officers, and record checks.

Factual Proffer

4. Based on my training and experience, I know that many foreign nationals illegally enter the United States to seek employment. Many of these foreign nationals communicate with other foreign nationals from their country who have previously lived here to gain an understanding of the labor system in the United States, learn about certain

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ISSUANCE OF MATERIAL WITNESS ARREST
WARRANTS FOR GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA

employers, and gain employment without work authorization from the Department of Homeland Security. Foreign nationals from the same country often seek to work together at the same establishments to have a shared language and culture.

5. As alleged by the Indictment in the matter of *United States v. Glenio Jesua Ferreira Silva*, CR 07-678 JSW, Silva is charged with harboring aliens in violation of Title 8, United States Code, Section 1324(a)(1)(A)(iii).

6. In summary, as it relates to RODRIGUES and DESOUZA, from at least March or April 2000 through June 15, 2007, Silva knowingly employed illegal Brazilian aliens at his restaurants and housed some illegal aliens, including RODRIGUES and DESOUZA, in space at his restaurants. While working for Silva and living at his businesses, RODRIGUES and DESOUZA each possessed a false California driver's license in the name of another. In interviews with RODRIGUES and DESOUZA, each advised that s/he had been living and working at the businesses operated by SILVA.

7. On January 15, 2008 and February 20, 2008, respectively, immigration detainers were placed against both RODRIGUES and DESOUZA. I know from my training and experience that upon release from federal custody on the criminal cases pending in the Northern District of California against them, RODRIGUES and DESOUZA will likely be placed in deportation and removal proceedings. I also know that it is possible that each of them could be removed to Brazil within days of their release, thus making them unavailable as a witness in the matter of *United States v. Glenio Jesua Ferreira Silva*, CR 07-678 JSW, when that case proceeds to trial.

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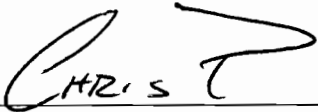
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AFFIDAVIT IN SUPPORT OF APPLICATION FOR ISSUANCE OF MATERIAL WITNESS ARREST
WARRANTS FOR GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA

Conclusion

8. Based on the foregoing, I believe that the testimony of GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA is material in the case *United States v. Glenio Jesua Ferreira Silva*, CR 07-678 JSW and that if deported, the government will be unable to secure the testimony of these witnesses by subpoena. Therefore, material witness warrants are respectfully requested for GERALDO RODRIGUES and ANDREA FERREIRA DESOUZA pursuant 18 U.S.C. § 3144.

Under penalty of perjury, I swear that the foregoing is true and correct to the best of my knowledge, information and belief.



CHRISTOPHER PURFEERST
Special Agent
Immigration and Customs Enforcement

SUBSCRIBED AND SWORN BEFORE ME
on March 4, 2008



HONORABLE JOSEPH C. SPERO
United States Magistrate Judge
Northern District of California